

MEMORANDUM

TO: Robert L. Morgan, P. E.
State Engineer

FROM: John R. Mann, P. E.
Weber Regional Engineer

DATE: August 13, 1994

RE: Silver Creek -- Pace and Park City problem

I wanted to recap for you what transpired today in Park City when I went up to talk with Don Barnett and representatives from Park City. Jerry Gibbs, Don and myself were the principal parties involved. As you know, Park City and the Paces have entered into a stipulation regarding the delivery of water into the Pace & Homer Ditch and are now disagreeing as to whether that stipulation is being complied with. The Paces believe that their 1861 priority water right under award 820 is not being filled and that Park City is irrigating and otherwise using water, primarily on the Park Meadows golf course, which should be released to them. The Paces allege that this water is an 1875 priority under awards 826 and 827 which were historically used to irrigate the place of use of the golf course and should therefore be cut off to provide them with 100% of their rights under 820.

Park City's position is that the course is watered strictly with Spiro Tunnel water which is leased from SLC and that all of the water emitting from the tunnel comes from the SLC side. PC has an approved application to use Spiro Tunnel water for municipal purposes. However, I do not believe that they have an approved point of diversion from Silver Creek, Dorrity Springs, or other surface source near where it is taken on the golf course.

Because it appeared to me that what was being asked was to cause Park City to release Spiro water to the Pace's, I refused to order such and we may be again asked to render a decision on the situation. Mainly I see it as a judicial decision which should be litigated and not an administrative one which could be made by us.

Problems: 1) Was Spiro Tunnel water part of the flow decreed to users on Silver Creek, East Canyon Creek, both or not decreed at all? The tunnel did not exist in 1861 when award 820 was first used -- the UGWC which was filed on the tunnel claimed a priority

of 1916. It does not appear in the decree as an individual source -- nor is it decreed to anyone. Also, I believe that the mines used to lease the water to right holders (e.g. Elmer Staheli -- Award 410) although I have no hard evidence of such. The water is probably naturally tributary to the East Canyon side if it was Weber water.

2) Has the Division recognized the court stipulation or agreement between PC and SLC which declares that water above 6600 ft in the tunnel is SLC water and therefore imported into PC? Our actions in approving Spiro applications for PC based on a contract with SLC indicates that we have.

3) Does PC have the right to irrigate the Park Meadows gc with Spiro Tunnel water if they use a natural channel to convey the water and have no application to redivert the water at the course or does the Spiro Tunnel water become common water once it commingles.

4) Several lot owners in the Holiday Ranchettes subdivision have access to the water for lawn irrigation prior to it reaching the Paces. We should request that they discontinue such use until there is sufficient water to fill the Pace right.

If you have other questions, let me know. I have already rehearsed this with John Mabey although I think it would be of benefit for the 3 of us to discuss it.